IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Kaka Singh & ors. Versus State of Rajasthan.

S.B. Criminal Misc. Petition No. 510/2006 against the order dated 13-4-2006 passed by the Addl. Sessions Judge, Raisinghnagar in Sessions Case No. 9/1986.

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Date of Order: April 25, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. P.K. Sharma, for the petitioners.
Mr. JPS Chaudhary, Public Prosecutor for the State.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioners seek extension of time to file personal bond and the surety bonds and also to pay the amount of compensation as directed by this Court vide judgment and order dated 19-11-2003 passed in S.B. Criminal Appeal No. 424/1987, which was further extended by this Court vide order dated 22-3-2006 in S.B. Criminal Misc. Petition No. 1299/2005 on the ground that the petitioners are in jail and the compliance order which was sent to the Superintendent, Central Jail, Sri Ganganagar dated 22-3-2006 did not specify that in what terms

the personal bond and the surety bonds were to be furnished and what was the amount of compensation to be deposited by the petitioners.

Learned counsel for the petitioners submits that though the appeal filed by the petitioners came to be decided by this Court vide judgment and order dated 19-11-2003, but the counsel representing the petitioners neither informed them about the fate of the case, nor obtained the certified copy of the judgment and order, nor made the same available to the petitioners and, therefore, the petitioners could not know as to what extent the amount of compensation was to be deposited and in what terms the personal bond and surety bonds are to be filed.

By the order dated 22-3-2006, this Court directed that the petitioners may now furnish the personal bond and surety bonds and deposit the amount of compensation as directed by this Court vide judgment and order dated 19-11-2003 passed in S.B. Criminal Appeal No. 424/1987 within fifteen days and in case the required bonds are not furnished and the amount of compensation is not deposited within fifteen days' time so granted, the trial Court will be free to proceed against the petitioners in accordance with law. The petitioners could not know about the order dated 22-3-2006 as the counsel appearing for them in the matter also did not inform the petitioners about

the order and when the petitioners came to know about the order dated 22-3-2006, by that time the period of fifteen days extended by this Court already came to an end and thereafter the petitioners filed personal bonds and surety bonds and were also prepared to deposit the amount of compensation, but the trial Court, vide impugned order dated 13-4-2006, refused to verify the personal bonds and the surety bonds and also refused to accept the amount of compensation.

From the order impugned dated 13-4-2006, it appears that the certified copy of the order dated 22-3-2006, extending the period to furnish the personal bonds and surety bonds as also to deposit the amount of compensation within fifteen days, was received on 31-3-2006. The petitioners filed the personal bond and surety bonds before the Superintendent, Central Jail, Sri Ganganagar and also offered the amount of compensation to be deposited, but the Superintendent, Central Jail refused to accept the bail bonds and the amount of compensation. By the communication dated 29-3-2006, the Superintendent, Central Jail, Sri Ganganagar requested the Additional Sessions Judge, Raisisnghnagar (for short, "the trial Court" hereinafter) either to make available the copy of the judgment and order dated 19-11-2003 which according to the Superintendent was not received by the jail authorities, or to apprise the Jail Authorities as to in what terms the petitioners

are required to furnish the personal bond and surety bonds and to deposit the amount of compensation. The communication dated 29-3-2006 has also been addressed to the Deputy Registrar (Judicial) of this Court.

Learned counsel for the petitioners submits that a further period of fifteen days from today may be granted to the petitioners to furnish the personal bonds and bail bonds and to deposit the amount of compensation as directed by this Court vide judgment and order dated 19-11-2003.

Having regard to the peculiar facts and circumstances of the case, though there is no specific provision in the Code for fixing the period within which such bail bonds are to be furnished, but it appears that the petitioners are illiterate persons and went out of the State for earning their livelihood and there were communication gaps between counsel and the petitioners regarding the decision of the appeal and even regarding subsequent order passed by this Court on 22-3-2006 for extending the period for further fifteen days for furnishing the bail bonds and depositing the amount of compensation, in my view, the ends of justice would be met if further fifteen days time from today is granted to the petitioners for furnishing the personal bond and the surety bonds as also to deposit the amount of compensation as directed vide judgment and order dated 19-11-2003.

Consequently, the criminal miscellaneous petition is allowed. The impugned order dated 13-4-2006 passed by the trial Court is set aside and it is directed that the petitioners may now furnish the personal bonds and the surety bonds and deposit the amount of compensation, as directed by this Court vide judgment and order dated 19-11-2003 passed in S.B. Criminal Appeal No. 424/1987, within fifteen days from today. In case the petitioners furnish the personal bonds and surety bonds and also deposit the amount of compensation in pursuance of the order dated 19-11-2003 within fifteen days, the petitioners, who are in jail, be set at liberty forthwith, if not required in any other case.

A copy of the operative portion of this order, as also the copy of the operative portion of the judgment and order dated 19-11-2003 passed by this Court in S.B. Criminal Appeal No. 424/1987, be forthwith sent to the trial Court, as well as to the Superintendent, Central Jail, Sri Ganganagar.

(H.R. PANWAR), J.

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